

UNITED STATES DISTRICT COURT

FOR THE

DISTRICT OF VERMONT

SARAH E. CUMMINGS, on behalf of
herself and all other similarly situated,

Plaintiff

v.

Docket No. 1:12-cv-93

TEACHERS INSURANCE AND ANNUITY
ASSOCIATION OF AMERICA – COLLEGE
RETIREMENT AND EQUITIES FUND
(TIAA-CREF), COLLEGE RETIREMENT
AND EQUITIES FUND (CREF), TEACHERS’
INSURANCE AND ANNUITY ASSOCIATION
OF AMERICA (TIAA), TIAA-CREF
INVESTMENT MANAGEMENT, LLC (TCIM),
TEACHERS ADVISORS, INC. (TAI), and
TIAA-CREF INDIVIDUAL & INSTITUTIONAL
SERVICES, LLC,

Defendants

**PLAINTIFF’S REPLY IN SUPPORT OF HER MOTION FOR PRELIMINARY
APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT AND
FOR CERTIFICATION OF THE SETTLEMENT CLASS**

As more fully described in Plaintiff’s Motion for Preliminary Approval of Proposal Class Action Settlement and For Certification of the Settlement Class [D.E. 113], and Defendants’ Response to Plaintiff’s Motion for Preliminary Approval of Proposed Class Action Settlement and Alternative Proposal for the Class Definition [D.E. 115], the Parties seek approval of their Settlement, for which there is one open issue to resolve: the definition of the Class in this case.

Plaintiff contends that the proper Class definition is the one alleged and described in the operative Third Amended Complaint, which excludes *Bauer-Ramazani* class members from the Cummings Class. This definition of the class is warranted because all *Bauer-Ramazani* class

members released any claims against Defendants arising from, *inter alia*, delays of three to seven days (D.E. 113). Plaintiff did not, in the settlement process, agree to expand the *Cummings* class to include members of the *Bauer-Ramazani* class.

Defendants contend otherwise, and assert some *Bauer-Ramazani* class members should be included in the *Cummings* class for settlement purposes.

The parties have agreed to submit the issue of the exclusion of *Bauer-Ramazani* class members from the Settlement Class to the Court for resolution, and be bound by the Court's ruling. The parties have agreed to administer the settlement, upon approval, based on the Court's ruling as to class composition.

Accordingly, Plaintiff respectfully requests the Court enter a ruling as to the Settlement Class definition, and grant Plaintiff's Motion for Preliminary Approval of Proposal Class Action Settlement and For Certification of the Settlement Class.

Dated: August 11, 2016.

s/ Kenneth R. Hartmann
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been served via electronic mail on August 11, 2016.

By: s/ Kenneth R. Hartmann
Kenneth R. Hartmann

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